

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
NO. 5:04-CR-261-1H

UNITED STATES OF AMERICA, )  
                                )  
                                )  
v.                             )  
                                )  
                                )  
                                )  
ROCKIE GENE WILLIAMS      )  
                               )  
                               )

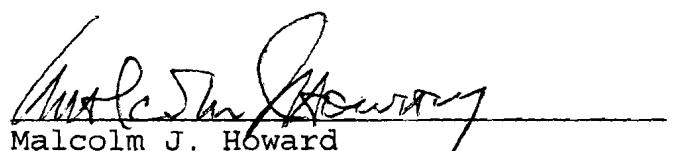
**ORDER**

This matter is before the court on defendant's motion for resentencing due to Amendment 709. Defendant argues that he should be given the benefit of application of Amendment 709 and that he would then be entitled to a reduced sentence because he would no longer be classified as a career offender or armed career criminal.

The court has reviewed defendant's memorandum as well as the record in this matter and finds defendant's motion to be without merit. Amendment 709 was not deemed to be applied retroactively, so defendant Williams is not entitled to be resentenced. Furthermore, if Amendment 709 were applied to defendant Williams' case, he would have received 2 additional points pursuant to U.S.S.G. § 4A1.1(f), and his sentence would not have changed.

Therefore, defendant's motion [DE #35] is DENIED.

This 1<sup>st</sup> day of November 2010.

  
\_\_\_\_\_  
Malcolm J. Howard  
Senior United States District Judge

At Greenville, NC  
#26